

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

MEDICIS PHARMACEUTICAL
CORPORATION,

Plaintiff,

v.

Civil Action No. 10-01099-SLR

NYCOMED US INC.,

Defendant.

DECLARATION OF DAVID KLAUM

I, David Klaum, hereby declare as follows:

1. I am currently employed by Nycomed US Inc. ("Nycomed") as its Sr. Vice President, Nycomed US, General Manager, Fougera. I have been employed by Nycomed since July 15, 1996, previously serving as National Sales Manager from July 15, 1996 - December 31, 1997, Director, National Sales from January 1, 1998 - December 31, 2000, Vice President, Sales & Marketing, Fougera from January 1, 2001 - June 30, 2005, and Sr. Vice President Commercial Operations from July 1, 2005 - February 28, 2008.

2. I am over the age of eighteen, and I have personal knowledge of and/or have confirmed or otherwise investigated, and if called as a witness to testify, I am competent to testify about, the factual matters asserted herein.

3. I submit this Declaration in support of Nycomed US Inc.'s motion to transfer venue to the Southern District of New York.

Nycomed US Inc.

4. Nycomed US Inc. ("Nycomed") is a company organized and existing under the laws of New York having a place of business at 60 Baylis Road, Melville, New York 11747.

5. Nycomed is in the business of researching, developing and manufacturing quality innovative and generic and brand topical pharmaceutical applications. All of Nycomed's facilities or offices, manufacturing or otherwise, are located in New York, Arizona, Pennsylvania and New Jersey. None are located in Delaware.

6. Nycomed does not maintain offices, facilities, local telephone listings, or bank accounts in Delaware. Nycomed also does not have any subsidiaries located in Delaware.

Nycomed's Fluocinonide Cream 0.1% ANDA

7. Nycomed has submitted an Abbreviated New Drug Application ("ANDA") to the U.S. Food and Drug Administration ("FDA") for Fluocinonide Cream 0.1 %. I understand that Medicis claims that that ANDA is the subject of this dispute.

8. The generic products that are the subject of the ANDA referenced in Medicis' Complaint are not yet approved by the FDA.

9. Nycomed conducted all of the basic research, development and manufacturing of the generic Fluocinonide Cream 0.1% products that are the subject of the ANDA referenced in Medicis' Complaint in New York. Clinical studies were conducted and managed in Pennsylvania and New York. None of this work was done in Delaware.

10. Nycomed prepared, filed and submitted the ANDA referenced in Medicis' Complaint in New York, not Delaware.

11. Nycomed submitted the ANDA referenced in Medicis' Complaint at FDA's Office of Generic Drugs in Maryland, not Delaware.

12. The ANDA referenced in Medicis' Complaint contains so-called "paragraph IV certifications" to the following Orange Book-listed patents for VANOS®: U.S. Patent No.

6,765,001 ("the '001 patent") and U.S. Patent No. 7,220,424 ("the '424 patent"). Nycomed has not filed a paragraph IV certification to U.S. Patent No. 7,794,738 ("the '738 patent").

13. Nycomed provided Medicis with notice of its ANDA filing containing its paragraph IV certifications with respect to the '001 and '424 patents in Arizona, not Delaware. Nycomed has not provided Medicis with notice of any paragraph IV certification with respect to the '738 patent because no paragraph IV certification has been filed regarding that patent.

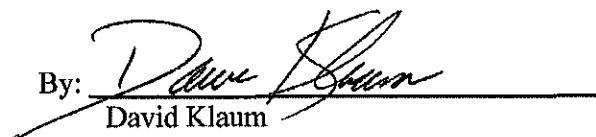
14. None of the relevant work regarding Nycomed's ANDA product, the preparation of the ANDA, or the filing of the ANDA occurred or was otherwise performed in Delaware. All such work occurred in New York.

15. None of the relevant documents and information regarding Nycomed's ANDA and ANDA product, including the ANDA and the underlying research and development documents, is located in Delaware. Such documents and information are located in New York.

16. None of the possible relevant witnesses with substantive knowledge regarding Nycomed's ANDA and ANDA product, including the ANDA and the underlying research and development, are located in Delaware. Such witnesses are located in New York.

I hereby declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge.

Dated: February 11, 2011
Melville, New York

By: 

David Klaum

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

CERTIFICATE OF SERVICE

I hereby certify that on February 15, 2011, I caused to be filed the foregoing document with the Clerk of Court using CM/ECF, which will send notification of such filing(s) to counsel of record, and have sent true and correct copies to the following as indicated:

VIA ELECTRONIC MAIL

Jack B. Blumenfeld, Esquire
Karen Jacobs Louden, Esquire
Morris, Nichols, Arsht & Tunnell
1201 North Market Street
P.O. Box 1347
Wilmington, DE 19899

VIA ELECTRONIC MAIL

Andrew M. Berdon, Esquire
Robert B. Wilson, Esquire
James E. Baker, Esquire
Quinn Emanuel Urquhart & Sullivan, LLP
51 Madison Avenue – 22nd Floor
New York, NY 10010-1601

/s/ Jason J. Rawnsley

Jason J. Rawnsley (#5379)
rawnsley@rlf.com